

1 **CHRISTOPHER J. KERLEY, WSBA #16489**

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7 *Counsel for Defendant Peter Erbland.*

8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF WASHINGTON**

10 **ANDREA D. GEORGE,**

11 Plaintiffs,

12 vs.

13 **THE COLVILLE CONFEDERATED TRIBES;**  
14 **RODNEY CAWSTON; ANDREW JOSEPH,**  
15 **JR.; JACK FERGUSON; RICHARD SWAN,**  
16 **SR.; MARVIN KHEEL; JOSEPH SOMDAY;**  
17 **JOEL BOYD; RICHARD MOSES; ALICE**  
18 **KOSKELA; SHANNON THOMASL JASON**  
19 **D'AVIGNON; and PETER ERBLAND,**

20 Defendants.

Case No. **2:24-CV-00123-SAB**

**DECLARATION OF CHRISTOPHER J.**  
**KERLEY IN SUPPORT OF DEFENDANT**  
**PETER ERBLAND'S JOINDER IN**  
**COLVILLE DEFENDANTS' MOTION TO**  
**DISMISS**

21 I, **CHRISTOPHER J. KERLEY**, hereby declare as follows:

- 22 1. I am over the age of eighteen years and have firsthand knowledge of the facts set forth  
23 below.
- 24 2. I am the lawyer for Defendant Peter Erbland in this matter.
- 25 3. I was the lawyer/spokesperson for all Respondents other than Peter Erbland in the Tribal  
26 Court matter filed by Andrea George in 2019, as represented by Exhibits 1 and 2 to the  
27 Declaration of William Dow. *ECF No. 28-1, ECF No. 28-2.*  
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**DECLARATION OF CHRISTOPHER J. KERLEY IN**  
**SUPPORT OF DEFENDANT PETER ERBLAND'S**  
**JOINDER IN COLVILLE DEFENDANTS' MOTION TO**  
**DISMISS - Page 1**

***Evans, Craven & Lackie, P.S.***

818 W. Riverside, Suite #250

Spokane, WA 99201-0910

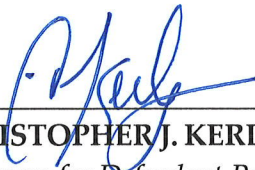
P: (509) 455-5200 | F: (509) 455-3632

1 4. The Summary Judgment Order issued by Judge Aycock (ECF No. 28-2), was affirmed by  
2 the Colville Tribal Court of Appeals when the Court of Appeals dismissed the appeal at the  
3 Initial Hearing. Attached hereto as *Exhibit 1* is a true and correct copy of that Order of  
4 Dismissal.

5 *I declare under the penalty of perjury under the laws of the State of Washington that the*  
6 *foregoing is true and correct.*

7 DATED this 14 day of May, 2024.

8  
9 EVANS, CRAVEN & LACKIE, P.S.

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12 \_\_\_\_\_  
13 CHRISTOPHER J. KERLEY, WSBA #16489  
14 Attorneys for Defendant Peter Erbland  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that on the 14<sup>th</sup> day of May, 2024, a true and correct copy of the foregoing was delivered to the following persons in the manner indicated:

**Plaintiff:**

**ANDREA D. GEORGE**  
PO Box 19394  
Spokane, WA 99219  
E: [ageorge26@icloud.com](mailto:ageorge26@icloud.com)

VIA REGULAR MAIL ☒  
VIA CERTIFIED MAIL ☐  
VIA FACSIMILE ☐  
HAND DELIVERED ☐  
EMAIL ☒

**Counsel for Defendants CCT, R. Cawston, A. Joseph, Jr., J. Ferguson, R. Swan, Sr., M. Kheel, J. Somday, I. Boyd, R. Moses, A. Koskela, S. Thomas & J. D'Avignon:**

**THOMAS B. NEDDERMAN, WSBA #28944**  
**WILLIAM J. DOW, WSBA #51155**  
Floyd, Pflueger, Kearns, Nedderman & Gress, P.S.,  
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VIA REGULAR MAIL ☒  
VIA CERTIFIED MAIL ☐  
VIA FACSIMILE ☐  
HAND DELIVERED ☐  
EMAIL ☒



**Chyanne C. Isom**

# **EXHIBIT 1**

CC: CHA FILED  
APR 12 22 PM 12:35  
Act

IN THE COURT OF APPEALS OF THE CONFEDERATED  
TRIBES OF COLVILLE RESERVATION

<p><b>Andrea GEORGE,</b> <b>Appellant,</b></p> <p><b>vs.</b></p> <p><b>THE COLVILLE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION; Rodney CAWSTON, a married individual in his official and individual capacity; Andrew JOSEPH, JR., a married individual in his official and individual capacity; Jack FERGUSON; a single individual in his official and individual capacity; Richard SWAN, SR., a single individual in his official and individual capacity; Karen CONDON, a single individual in her official and individual capacity; Marvin KHEEL, a single individual in his official and individual capacity; Joseph SOMDAY, a single individual in his official and individual capacity; Margaret HUTCHINSON, a married individual in her official and individual capacity; Joel BOYD, a single individual in his official and individual capacity; Janet NICHOLSON, a single individual in her official and individual capacity; Norma SANCHEZ, a married individual in her official and individual capacity; Richard MOSES, a single individual in his official and individual capacity; Susie ALLEN, a married individual in her official and individual capacity; Alice KOSKELA, a married individual in her official and individual capacity; Shannon THOMAS, a married individual in her official and individual capacity; Jason D'AVIGNON, a married individual in his official and individual capacity; Peter ERBLAND, in his individual capacity,</b> <b>Appellees.</b></p>	<p><b>CASE NO. AP21- 016</b></p> <p><b>ORDER DISMISSING APPEAL WITH PREJUDICE AT INITIAL HEARING</b></p>
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## ORDER

In late January, 2019 Appellant Andrea George filed a civil complaint against The Confederated Tribes of the Colville Reservation (CCT), thirteen (13) Council members, past and current, three (3) attorney employees, past and current, of the Office of Reservation Attorneys (ORA), and Peter Erbland, a contract attorney who had done work for the Council. In total, the number of Respondents was eighteen (18). The complaint is not file-stamped by the Trial Court, but it was signed by Appellant on January 25, 2019.

After a very lengthy statement of allegations against each of the Respondents, both singularly and severally, Appellant identified four (4) specific counts of actions of the respondents upon which she based her lawsuit: (1) Sexual Harassment; (2) Intentional Affliction of Emotional Distress; (3) Retaliation; and (4) Defamation.

The Trial Court, after considering the record and pleadings of the parties, granted Respondents' Motion for Summary Judgment. The Motion was filed by all of the Respondents except Mr. Erbland. Mr. Erbland joined in the Motion. The Trial Court found *Gabriel v. Colville Business Council*, 14 CCAR 05 (2018) dispositive in that *Gabriel* held actions regarding CBC members' ethics and ability to remain a CBC member "lies exclusively within the constitutional and statutory powers and authority of the CBC itself." *id.* That is, separation of powers prevents our review of the actions of the CBC in their capacity as CBC members.


The Trial Court addressed each individual Count, too, discussing the doctrine of sovereign immunity. We need not review the case further then finding we have no subject matter jurisdiction over the case. Sovereign immunity is an affirmative defense, which is raised when the Court has subject matter jurisdiction. *See Swan v. CBC*, 11 CCAR 83 (2014).

As for the actions against Peter Erbland, they are not actionable in this case. Mr. Erbland merely gave legal advice to the CBC; he did not cause any of the allegations against the other Respondents/Appellees.

Based on the foregoing, now therefore

It is ORDERED that the Trial Court's Order of October 18, 2021 is AFFIRMED and this Appeal is DISMISSED WITH PREJUDICE, and REMANDED to the Trial Court for actions consistent with this Order.

DATED this 12<sup>th</sup> day of April, 2022.

  
Anita Dupris, Chief Justice

Order, AP21-016

Page 2 of 2

Colville Tribal Court of Appeals  
P O Box 150, Nespelem WA 99155

I certify that I served a copy of this document on:

☒ Appellant/Counsel M. Carroll  
☒ Appellee/Counsel C. Kerley, P. Erbland, Pro Se  
☒ Appellate Panel AD, WAP, MT ☒ COA Bench (10)  
IM: ☒ Trial Court ☐ JTCR ☒ JTC Bench (2)

Date: 4-13-22

Initials: act